

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

RAMON ARMAS BORROTO, JR.,

Plaintiff,

vs.

Case No. 5:04cv165-RH/WCS

OFFICER McDONALD, et al.,

Defendants.

_____/

ORDER

Two prior orders, docs. 53 and 59, to the Deputy General Counsel of the Florida Department of Corrections have now gone unanswered. The deadlines for responding to those orders, the last order being an order to show cause, have passed without any effort being made to facilitate service on the missing Defendant in this case, Nurse Donna Kent. The procedures previously employed in this District of using more informal methods of locating missing Defendants and former prison officials no longer appears feasible.¹ Accordingly, this order is entered to locate the missing Defendant.

¹ In cases 5:04cv144, 5:04cv387, 4:02cv 249, 1:01cv112, and 5:03cv177, multiple orders have been necessary to facilitate service on a missing Defendant. In this case, multiple orders have been ignored.

Accordingly, it is

ORDERED:

1. The Clerk of Court shall prepare a subpoena pursuant to FED. R. CIV. P. 45(a)(2)(C) directing **James Crosby**, Secretary of the Florida Department of Corrections, to produce records held by the Department which identify the last known address for Defendant Nurse Donna Kent, a former employee who was employed at Washington Correctional Institution during November and December of 2002 as a Nurse, see doc. 19, and for whom a notice of appearance was entered in case 5:04cv144.²
2. The subpoena shall direct James Crosby to produce the records *in camera* to the Court to protect the confidential nature of the records under Florida law.
3. The Clerk of Court shall provide the subpoena for **Defendant Crosby** to the United States Marshal for service, and shall prepare and send the Marshal a courtesy copy of this order as well.
4. Pursuant to Rule 4(c), Federal Rules of Civil Procedure, **Debra Hix** is specially appointed to serve process upon Defendant **James Crosby** at the Florida Department of Corrections Central Office. In the absence of **Debra Hix**, the specially

² Judicial notice is taken that in case number 5:04cv144, a person with this same name and who worked at the same institution, was able to be served with process after facilitation by the Deputy General Counsel. See case number 5:04cv144, doc. 53. Accordingly, the Department of Corrections has information concerning the whereabouts of this missing Defendant which will aid service of process.

appointed process server designated above, **Susan Torbert** is designated as an alternate server and shall comply with this order as though issued in her name.

5. Within 10 days from the date of entry of this order on the docket, the United States Marshal or a Deputy United States Marshal shall serve the subpoena upon Defendant Crosby. Service shall be accomplished **by mailing the subpoena by regular mail to the above named special process server, Debra Hix, who shall serve the amended complaint.** All costs of service shall be advanced by the United States.

6. As a courtesy, this order shall also be provided to the Deputy General Counsel for the Department of Corrections both electronically and through first class mail to ensure receipt.

7. Plaintiff is reminded that the summary judgment motion filed by the previously served Defendants is pending. Plaintiff's opposition pursuant to Rule 56 as explained previously, see doc. 63, is due on or before January 31, 2006.

DONE AND ORDERED on December 5, 2005.

s/ William C. Sherrill, Jr.
WILLIAM C. SHERRILL, JR.
UNITED STATES MAGISTRATE JUDGE